



**United States
General Accounting Office
Washington, D.C. 20548**

Office of the General Counsel

B-281441

November 18, 1998

The Honorable Alfonse M. D'Amato
Chairman
The Honorable Paul S. Sarbanes
Ranking Minority Member
Committee on Banking, Housing, and Urban Affairs
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

**Subject: Securities and Exchange Commission: Reports To Be Made by Certain
Brokers and Dealers**

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Securities and Exchange Commission (SEC), entitled "Reports To Be Made by Certain Brokers and Dealers" (RIN: 3235-AH36). We received the rule on October 26, 1998. It was published in the Federal Register as a final rule on November 3, 1998. 63 Fed. Reg. 59208.

The final rule amends Rule 17a-5 under the Securities Exchange Act of 1934 to require certain broker-dealers to file with the SEC and their designated examining authorities a report prepared by an independent public accountant regarding the broker-dealer's process for preparing for the Year 2000.

Enclosed is our assessment of the SEC's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the SEC complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Securities and Exchange Commission is Thomas McCool,

Director, Financial Institutions and Markets Issues. Mr. McCool can be reached at (202) 512-8678.

Robert P. Murphy
General Counsel

Enclosure

cc: The Honorable Jonathan G. Katz
The Secretary of the Securities and
Exchange Commission

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
THE SECURITIES AND EXCHANGE COMMISSION
ENTITLED
"REPORTS TO BE MADE BY CERTAIN BROKERS AND DEALERS"
(RIN: 3235-AH36)

(i) Cost-benefit analysis

The SEC was not required to prepare, and did not prepare a cost-benefit analysis for the final rule. However, the SEC did consider the rule's impact on competition pursuant to Section 23(a) of the Securities Exchange Act. The SEC estimates that the total cost to the industry of broker-dealers obtaining and filing the independent public accountants' reports is \$66,150,000.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The SEC prepared an Initial and a Final Regulatory Flexibility Analysis in connection with the final rule. This complies with the requirements of the Regulatory Flexibility Act.

While the final rule will affect small entities, the SEC has minimized the impact by excluding broker-dealers with less than \$100,000 minimum net capital requirements. Therefore, 4,600 of the 5,200 small broker-dealers will not have to file the independent public accountants' report.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

As an independent regulatory agency, the SEC is not subject to title II of the Unfunded Mandates Reform Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

The final rule was issued using the notice and comment procedures contained in 5 U.S.C. § 553. On July 13, 1998, the SEC published a Notice of Proposed Rulemaking in the Federal Register (63 Fed. Reg. 37709) and received 27 comments letters in response. They are discussed in the preamble to the final rule.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The information collection contained in the final rule was subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and was approved by OMB, which assigned control number 3235-0511.

Statutory authorization for the rule

The final rule was issued under authority contained in sections 17(a) and 23(a) of the Securities Exchange Act of 1934, 15 U.S.C. §§ 78o(c)(3) and 78(w).

Executive Order No. 12866

The rule, promulgated by an independent regulatory agency, is not subject to the review requirements of Executive Order No. 12866.